

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1977**

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**Introduced by Assembly Member Benoit**

February 14, 2008

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An act to add and repeal Section 53121 of the Government Code, and to amend Section 2891 of the Public Utilities Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1977, as amended, Benoit. Public safety: law enforcement communications: release of information.

(1) Existing law establishes various programs relating to law enforcement. Existing law requires every public agency to establish and have in operation a telephone system that automatically connects a person dialing the digits "911" to an established public safety answering point, as specified.

This bill, until January 1, 2015, would require telecommunications service providers, as defined, to provide law enforcement agencies with customer information, as defined, under exigent *or emergency* circumstances, as specified. This bill would require telecommunications service providers to maintain all requests from law enforcement agencies for customer information for at least 2 years and provide that after a release of customer information to a law enforcement agency, a telecommunications provider shall be entitled to obtain from the agency all legal documents, as specified, that formed the basis for the agency's request. This bill would specify that information obtained pursuant to these provisions shall be used solely for the purpose of rendering emergency aid by law enforcement to the customer, as specified.

(2) Existing law relating to consumer privacy prescribes the circumstances under which a telephone and telegraph corporation may release certain information regarding a residential subscriber without his or her written consent. Existing law authorizes a subscriber to rescind that written consent and requires the corporation to cease to make available the prescribed personal information within 30 days following receipt of notice of rescission.

This bill would, instead, impose those restrictions on the release of information regarding a telecommunications subscriber, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 53121 is added to the Government Code,  
2 to read:

3 53121. (a) Notwithstanding any other provision of law, each  
4 request by a law enforcement agency to a telecommunications  
5 service provider for customer information that is made under  
6 exigent *or emergency* circumstances, shall include, at minimum,  
7 all of the following information:

8 (1) The name, title, and badge *or identification* number of the  
9 ~~law enforcement officer~~ *authorized law enforcement employee*.

10 (2) The office location and telephone number for the ~~officer~~  
11 *authorized law enforcement employee*.

12 (3) The name and telephone number of the ~~officer's~~ *authorized*  
13 *law enforcement employee's* supervisor or operating department  
14 or division that can be contacted by the service provider for  
15 verification of the ~~officer's identity~~ *exigent or emergency*  
16 *circumstances by the law enforcement agency or emergency service*  
17 *provider*.

18 (4) The assertion by the officer that an exigent *or emergency*  
19 circumstance exists as determined by the requesting law  
20 enforcement agency.

21 (5) The customer's telephone number or other information that  
22 allows the telecommunications service provider to determine that  
23 the individual about whom the request is made is a customer.

24 (b) As used in this section:

1 (1) "Customer information" means only the name of the  
2 customer, location of the wireless device, and any additional  
3 telephone numbers of the customer.

4 ~~(2) "Exigent circumstance" means a reasonable belief by the~~  
5 ~~law enforcement officer that a situation exists that involves~~  
6 ~~immediate danger of death or serious bodily injury to any person.~~  
7 ~~This includes, but is not limited to, a crime listed on the Type I~~  
8 ~~felonies as defined by the Federal Bureau of Investigation,~~  
9 ~~including, but not limited to, homicide, rape, robbery, aggravated~~  
10 ~~assault, kidnapping, domestic violence, burglary, grand theft auto,~~  
11 ~~and arson.~~

12 (2) "*Exigent or emergency circumstance*" means a situation  
13 that involves an emergency service agency responding to a 911  
14 telephone call or any other call communicating an imminent threat  
15 to life or property.

16 (3) "Telecommunications service provider" has the same  
17 meaning as the term "telephone corporation," as defined in Section  
18 234 of the Public Utilities Code.

19 (c) If all of the information listed in subdivision (a) is provided  
20 by the law enforcement agency to the telecommunications service  
21 provider, the telecommunications service provider shall provide  
22 the law enforcement agency with the requested customer  
23 information upon verification of the ~~law enforcement officer's~~  
24 ~~identity~~ *exigent or emergency circumstance, whenever possible,*  
25 *by the law enforcement agency of emergency service provider.* No  
26 telecommunications service provider, or official or employee  
27 thereof, shall be subject to liability when it acts in a reasonable  
28 manner upon receiving the information required by subdivision  
29 (a).

30 (d) All telecommunications service providers shall maintain for  
31 a period of no less than two years all requests from public safety  
32 agencies for customer information that are made under exigent  
33 circumstances.

34 (e) Information obtained as the result of a request pursuant to  
35 this section shall be used solely for the purpose of rendering  
36 emergency aid by a law enforcement agency to the customer during  
37 the exigent circumstances forming the basis of the request.

38 (f) The California Wireless Telecommunications Association,  
39 representatives from T-Mobile, Sprint/Nextel, Verizon Wireless,  
40 AT&T Wireless, Metro PCS, Crickets Wireless Services, the

1 California State Sheriffs' Association, California Peace Officers  
2 Association, the Department of the California Highway Patrol, the  
3 California District Attorneys Association, the Los Angeles County  
4 District Attorney's office, and the California Police Chiefs'  
5 Association shall, immediately upon enactment of this section,  
6 convene the California Wireless Telecommunications Public Safety  
7 Working Group. The working group shall consist of at least one  
8 member of each named group. Each group shall give great weight  
9 and consideration to appointing members of the working group  
10 with diverse geographic and demographic interests. The working  
11 group shall meet ~~at least three times annually~~ *either in person or*  
12 *via conference call at least once a year* to identify and resolve  
13 telecommunication issues that create barriers to timely emergency  
14 response and use of the Global Positioning System (GPS) and  
15 other advanced telecommunication features. In addition, the  
16 working group shall address issues including, but not limited to,  
17 the release of customer information to a law enforcement agency  
18 in the event of an emergency or exigent circumstances and how  
19 to conform state law to applicable federal law. No reimbursement  
20 is required under this subdivision.

21 (g) A telecommunications service provider shall not impose  
22 any charge or fee for compliance with this section.

23 (h) This section shall remain in effect only until January 1, 2015,  
24 and as of that date is repealed, unless a later enacted section, that  
25 is enacted before January 1, 2015, deletes or extends that date.

26 SEC. 2. Section 2891 of the Public Utilities Code is amended  
27 to read:

28 2891. (a) A telephone or telegraph corporation shall not make  
29 available to any other person or corporation, without first obtaining  
30 the telecommunications subscriber's consent, in writing, any of  
31 the following information:

32 (1) The telecommunications subscriber's personal calling  
33 patterns, including any listing of the telephone or other access  
34 numbers called by the subscriber, but excluding the identification  
35 to the person called of the person calling and the telephone number  
36 from which the call was placed, subject to the restrictions in Section  
37 2893, and also excluding billing information concerning the person  
38 calling which federal law or regulation requires a telephone  
39 corporation to provide to the person called.

1 (2) The telecommunications subscriber's credit or other personal  
2 financial information, except when the corporation is ordered by  
3 the commission to provide this information to any electrical, gas,  
4 heat, telephone, telegraph, or water corporation, or centralized  
5 credit check system, for the purpose of determining the  
6 creditworthiness of new utility subscribers.

7 (3) The services which the telecommunications subscriber  
8 purchases from the corporation or from independent suppliers of  
9 information services who use the corporation's telephone or  
10 telegraph line to provide service to the telecommunications  
11 subscriber.

12 (4) Demographic information about individual  
13 telecommunications subscribers, or aggregate information from  
14 which individual identities and characteristics have not been  
15 removed.

16 (b) Any telecommunications subscriber who gives his or her  
17 written consent for the release of one or more of the categories of  
18 personal information specified in subdivision (a) shall be informed  
19 by the telephone or telegraph corporation regarding the identity  
20 of each person or corporation to whom the information has been  
21 released, upon written request. The corporation shall notify every  
22 telecommunications subscriber of the provisions of this subdivision  
23 whenever consent is requested pursuant to this subdivision.

24 (c) Any telecommunications subscriber who has, pursuant to  
25 subdivision (b), given written consent for the release of one or  
26 more of the categories of personal information specified in  
27 subdivision (a) may rescind this consent upon submission of a  
28 written notice to the telephone or telegraph corporation. The  
29 corporation shall cease to make available any personal information  
30 about the subscriber, within 30 days following receipt of notice  
31 given pursuant to this subdivision.

32 (d) This section does not apply to any of the following:

33 (1) Information provided by telecommunications subscribers  
34 for inclusion in the corporation's directory of subscribers.

35 (2) Information customarily provided by the corporation through  
36 directory assistance services.

37 (3) Postal ZIP Code information.

38 (4) Information provided under supervision of the commission  
39 to a collection agency by the telephone corporation exclusively  
40 for the collection of unpaid debts.

1 (5) Information provided to an emergency service agency  
2 responding to a 911 telephone call or any other call communicating  
3 an imminent threat to life or property.

4 (6) Information provided to a law enforcement agency in  
5 response to lawful process.

6 (7) Information that is required by the commission pursuant to  
7 its jurisdiction and control over telephone and telegraph  
8 corporations.

9 (8) Information transmitted between telephone or telegraph  
10 corporations pursuant to the furnishing of telephone service  
11 between or within service areas.

12 (9) Information required to be provided by the corporation  
13 pursuant to rules and orders of the commission or the Federal  
14 Communications Commission regarding the provision over  
15 telephone lines by parties other than the telephone and telegraph  
16 corporations of telephone or information services.

17 (10) The name and address of the lifeline customers of a  
18 telephone corporation provided by that telephone corporation to  
19 a public utility for the sole purpose of low-income ratepayer  
20 assistance outreach efforts. The telephone corporation receiving  
21 the information request pursuant to this paragraph may charge the  
22 requesting utility for the cost of the search and release of the  
23 requested information. The commission, in its annual low-income  
24 ratepayer assistance report, shall assess whether this information  
25 has been helpful in the low-income ratepayer assistance outreach  
26 efforts.

27 (11) Information provided in response to a request pursuant to  
28 Section 53121 of the Government Code or subdivision (a) of  
29 Section 530.8 of the Penal Code.

30 (e) A violation of this section is grounds for a civil suit by the  
31 aggrieved telecommunications subscriber against the telephone or  
32 telegraph corporation and its employees responsible for the  
33 violation.

34 (f) For purposes of this section:

35 (1) "Access number" means a telex, teletex, facsimile, computer  
36 modem, or any other code which is used by a telecommunications  
37 subscriber of a telephone or telegraph corporation to direct a  
38 communication to another subscriber of the same or another  
39 telephone or telegraph corporation.

1     (2) “Telecommunications subscriber” means a subscriber to  
2     residential telephone service, mobile telephony service, or voice  
3     communication services utilizing voice over Internet Protocol (IP)  
4     or any successor protocol.

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